## APPENDIX

1

*Section 6, Chapter 113, Laws of 1938.* Be it enacted, that Section 8 of chapter 119, laws of 1934, as amended by chapter 158, laws of 1936, be and the same is hereby amended so as to read as follows:

Taxpayer must keep records—failure to make returns—duty and power of commissioner.

Section 8. It shall be the duty of every person engaging or continuing, in this state, in any business for which a privilege tax is imposed by this act to keep and preserve adequate records of the gross income, gross receipts or gross proceeds of sales of such business and such other books or accounts as may be necessary to determine the amount of tax for which he is liable, under the provisions of this act, which said records shall be adequate in substance rather than form, to conform to the requirements and regulations promulgated by the commissioner; and all of such records shall be written in the English language. And it shall be the duty of every such person to keep and preserve, for a period of two years, all invoices of goods and merchandise purchased for resale, and all such books, invoices and other records shall be open for examination at any time, by the commissioner or his duly authorized agent.

The records provided for in this section shall be kept at the taxpayer's principal place of business within this state, and failure to keep such records shall subject the person so failing to all the penalties of this act.

If adequate records of the gross income, gross receipts or gross proceeds of sales are not maintained or invoices preserved as provided herein, the commissioner may make additional returns and assessments from the best information available, and shall give notice by registered mail of such returns and assessments, and such returns and assessments shall be prima facie correct for the purpose of this act, and the amount of tax shown due thereby shall be

a lien against all the property of the taxpayer until discharged by payment and if such tax be paid within ten days after notice by the commissioner, then there shall be added ten per centum as damages and interest at the rate of one per centum per month from the time such tax was due until paid. If payment be not made within ten days after demand therefor by the commissioner, there may be added twenty five per cent for the first offense and fifty per cent for subsequent offenses as damages together with interest at the rate of one per centum per month on the tax from the time such tax was due. Provided, however, in the event such taxpayer, within ten days from the date of such notice, shall by petition in writing state that said return is incorrect, the commissioner shall grant a hearing on such petition and investigate that question fully before proceeding further under this section.

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*Section 1, Chapter 150, Laws of 1938.* The governor shall designate the other associate commissioner as "excise commissioner", who shall be selected from the state at large, and who shall preferably, though not necessarily, be an attorney at law.

It shall be the duty of the excise commissioner to familiarize himself with the laws imposing income, sales and other taxes administered by the chairman of the commission. He shall have charge of all appeals from decisions of the chairman to the entire commission, shall arrange the time and place of hearing such appeals, and shall provide for the preparation and presentation to the commission of all evidence, documents, and other matters necessary and proper for a decision on the matters and questions involved in the appeal. The excise commissioner shall, when necessary, direct and supervise the preparation of any record to be filed in any court of the state. When directed by the other members of the commission, and agreed to by the appealing taxpayers, he may hold a hearing on any appeal from a decision of the chairman at the time and place agreed to, and at such hearing shall take the testimony of witnesses, verbally, or in writing, take depositions, and

shall have the power to require the production of books and other records and papers which the chairman is authorized to demand or examine, and he shall have authority to make copies of same. At the conclusion of the hearing, the excise commissioner shall submit all written evidence, documents, records and other pertinent information to the other members of the commission, together with a report in writing setting forth a review of the cause and the essential facts of the matter. Whereupon the whole commisison, if the appealing taxpayer assents thereto, shall render its decision on the appeal; but if the taxpayer desires a further hearing on the cause, the whole commission shall hear the appeal at its office in the capitol.

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*Mississippi Code 1930*

3276. Taxes erroneously paid refunded.—If any person, firm or corporation has paid or shall hereafter pay to the auditor of public accounts or to any tax collector, through error or otherwise whether paid under protest or not, any ad valorem, privilege or excise taxes for which such person, firm or corporation was not liable, or if any such taxpayer has paid any such tax in excess of the sum for which he or it was liable, and any such erroneous payment or overpayment has been paid into the proper treasury, then, in any such event, the auditor of public accounts is hereby authorized and required, upon proper application of any such claimant, to make a careful investigation of all such claims, or, if he shall find that any taxes or moneys have been, or may hereafter be, erroneously paid into the treasury of the state, county, or levee boards, for the purchase or redemption of lands erroneously sold for taxes heretofore or hereafter by an tax collector, he shall audit such claims against each separate fund in proportion to the amount paid over to such fund in each case, and he shall submit such audited claim with the voucher and evidence on which such claim is based, to the attorney-general for his inspection and approval, and if the attorney-general be of the opinion that such claims should

be paid he shall approve the same, and the auditor shall thereupon file such voucher and other papers necessary in each case, in his office, as a voucher, and issue his warrant on the state treasury in favor of the claimant for the amount of purchase-money or taxes erroneously paid into the state treasury, and the auditor shall audit the amount of taxes paid the county and levee boards, as the case may be, and shall certify the amounts found to be due to the clerk of the board of supervisors and secretary of the levee board, and the said board of supervisors, or levee board, shall cause the warrant to be issued on the treasurer of the county, or levee board, in favor of the claimant as certified by the auditor of public accounts, as the case may be, and the county depository, or the treasurer of the levee board, is hereby directed, authorized and required to pay such claims; provided, that it shall not be necessary in order to authorize such refund that the tax payment was made under protest or because of coercive measures taken on the part of the collecting officers. Provided, however, that nothing in this section shall be so construed as to authorize the recovery or repayment of any tax heretofore levied and collected by any special road district, drainage district, or separate school district, on account of, or upon the ground that the law authorizing such tax was unconstitutional, whether the unconstitutionality of such tax be based upon the creation or mode of operation of any special road district, drainage district, or separate school district. Provided further, that nothing in this section shall be construed as authorizing the refunding of state taxes paid into the state treasury through error, or otherwise, without an appropriation first being made to pay such refund or refunds.

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*Section 72, Mississippi Code of 1930*

All cases decided by a justice of the peace, whether exercising general or special jurisdiction, may, within six months thereafter, on good cause shown by petition, supported by affidavit, be removed to the circuit court of the county, by writ of certiorari, which shall operate as a

supersedeas, the party, in all cases, giving bond, with security, to be approved by the judge or clerk of the circuit court, as in cases of appeal from justices of the peace; and in any cause so removed by certiorari, the court shall be confined to the examination of questions of law arising or appearing on the face of the record and proceedings. In case of an affirmance of the judgment of the justice, the same judgment shall be given as on appeals. In case of a reversal, the circuit court shall enter up such judgment as the justice ought to have entered, if the same be apparent, or may then try the cause anew on its merits, and may in proper cases enter judgment on the certiorari or appeal-bond, and shall, when justice requires it, award restitution. The clerk of the circuit court, on the issuance of a certiorari, shall issue a summons for the party to be affected thereby; and in case of non-residents, may make publication for them as in other cases.

*Section 73, Mississippi Code of 1930*

Like proceedings as provided in the last section may be had to review the judgments of all tribunals inferior to the circuit court, whether an appeal be provided by law from the judgment sought to be reviewed or not.

6

*Mississippi Code of 1942*

Section 4292. It shall not be lawful for the state treasurer to pay or receive any money on account of the state but on the warrant or certificate of the auditor, issued pursuant to law; and when he shall make any disbursement, he shall write or stamp the word "paid", in large characters, across the face of the warrant, and shall make an entry in his office of the date of such warrant; and the warrant thus cancelled shall be a sufficient voucher for the payment of the same.

*Mississippi Constitution of 1890*

Section 14. No person shall be deprived of life, liberty, or property except by due process of law.

Section 63. No appropriation bill shall be passed by the legislature which does not fix definitely the maximum sum thereby authorized to be drawn from the treasury.

Section 64. No bill passed after the adoption of this Constitution to make appropriations of money out of the state treasury shall continue in force more than six months after the meeting of the legislature at its next regular session; nor shall such bill be passed except by the votes of a majority of all the members elected to each house of the legislature.

Section 69. General appropriation bills shall contain only the appropriations to defray the ordinary expenses of the executive, legislative, and judicial departments of the government; to pay interest on state bonds, and to support the common schools. All other appropriations shall be made by separate bills, each embracing but one subject. Legislation shall not be engrafted on appropriation bills, but the same may prescribe the conditions on which the money may be drawn, and for what purposes paid.